

# Failing Our Children

By Carlos R. Moreno  
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In a single decision on a single day in April, a Texas district judge placed more than 440 children from a polygamous sect in foster care, a decision that was subsequently overturned.

This was a highly unusual case to be sure, but it put a spotlight on a side of child welfare that the public rarely sees: the role of the courts and what it means to give each child and his or her family the consideration they deserve in a just and fair system.

Dependency courts oversee the most intimate decisions one person can make about another: where children will live and with whom, when or if they can be returned to their parents, where they will grow up if their parents cannot care for them safely.

Texas reminds us it is time to talk about the role of the courts in child welfare. The California Blue Ribbon Commission on Children in Foster Care is doing just that. A statewide panel of leaders and experts, this commission was appointed by the Chief Justice in 2006 and has issued draft recommendations on how the courts and their partners can better support children in foster care and their families. The commission recently held public hearings in Los Angeles and San Francisco to get reactions to their draft recommendations.

Fortunately, no one judge in our state has to make decisions about 400 children at any one time. However, our full-time judicial officers carry an average caseload of 1,000 children. And every child who enters or leaves foster care—approximately 80,000 in California—must appear before a juvenile court.

Attorneys who represent children and families are also burdened by excessive caseloads. The average attorney caseload is 273, far more than the recommended level. In some counties, attorneys carry more than 600 cases, which surely compromises their ability to provide adequate representation.

Some attorneys do not even meet children and parents they represent until the day of their hearing. Children are not routinely notified of their hearings. The system does not regularly provide transportation for foster youth to their hearings. Even if they get there—sometimes on their own, sometimes skipping school—they may wait hours for a hearing that lasts a mere 5 to 10 minutes.

In short, California's dependency courts are overwhelmed with high caseloads and crowded dockets. Decisions that have lasting impact on a child's life are often made too quickly with inadequate information. Judges and attorneys do not have time to hear the hopes, concerns and needs of a child and his or her parents. Delays in our system are the norm.

But for a child, justice delayed is justice denied. Children whose needs are not met fall through cracks in the system.

Dependency court decisions determine how long a child stays in foster care. We know that children who grow up in foster care with no permanent home are more likely to drop out of school, face unemployment, homelessness, mental illness and involvement with the criminal justice system.

This is not the future we have in mind for our children. The good news is these problems can be addressed. We believe the Blue Ribbon Commission recommendations are practical and concrete proposals to help guide the way.

The draft recommendations include:

- More preventive services to help families keep children at home safely.
- Flexible use and reinvestment of federal foster care funds to provide services that support children being raised in safe and permanent family environments. These funds are usually restricted for use only after a child has been removed from the home.
- Reasonable caseloads for judges, attorneys, and social workers.
- Measures to ensure children and parents have the opportunity to be present and participate meaningfully in court.
- Better collaboration and information-sharing between the courts and other agencies that work with the same children and families.
- Efforts to address the disturbing problem of disproportionate representation in the system of African-American and Native American children.
- Extension of the availability of foster care assistance from age 18 to 21. No young person should be sent out into the world alone at age 18, which is exactly what the system does to many foster youth who reach the age of “emancipation” with no permanent home.

If we truly believe all children should grow up in a safe, permanent home, under the guidance of nurturing adults, then it is time for us to turn our words into action. Quite simply, justice delayed is no longer a choice.

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